

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	
COMPANY FOR CERTIFICATES OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY AND)	2011-00161
APPROVAL OF ITS 2011 COMPLIANCE PLAN)	
FOR RECOVERY BY ENVIRONMENTAL)	
SURCHARGE)	

O R D E R

On June 13, 2011, Frances D. Farris submitted a letter, which the Commission will treat as a motion, in which she requested leave to intervene in any rate increase matters concerning Kentucky Utilities Company ("KU"), which includes this proceeding. Subsequently, on June 22, 2011, Ms. Farris filed an additional letter, which the Commission will treat as a motion, in which she again requested full intervention in this case. On June 20, 2011, KU filed its response to Ms. Farris' first motion to intervene, arguing that the motion did not state a special interest in the proceeding that is not already represented by the Attorney General, that the motion fails to identify any issues or facts that Ms. Farris will develop that will assist the Commission in the resolution of this matter, and that Ms. Farris' intervention could unduly complicate and disrupt the proceeding.

Ms. Farris' June 13, 2011 motion requests the Commission to deny any additional rate increases for KU for 2012 or thereafter; and her June 22, 2011 motion

states that she is an “interested ‘special interest’”¹ whose intervention is intended to stop excessive rate surcharges. Her June 22, 2011 motion additionally states that as a ratepayer, she has not been adequately represented by the Commission because the Commission has repeatedly held that a ratepayer’s general interest as a customer is not a special interest warranting intervention.

On June 30, 2011, KU filed its response to Ms. Farris’ renewed motion requesting that the Commission deny Ms. Farris’ renewed motion to intervene. KU’s response states that Ms. Farris’ renewed motion does not state a special interest in the proceeding that is not already represented by the Attorney General, that the renewed motion fails to identify any issues or facts that Ms. Farris will develop that will assist the Commission in the resolution of this matter, and that Ms. Farris’ intervention would unduly complicate and disrupt the proceeding.

Based on the motions to intervene and being otherwise sufficiently advised, the Commission finds that the only person that has a statutory right to intervene is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission. In the recent unreported case of *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007), the Court of Appeals ruled that this Commission retains power in its discretion to grant or deny a motion for intervention but that discretion is not unlimited. The Court then enumerated the statutory and regulatory limits on the Commission’s discretion in ruling on motions for intervention. The statutory limitation, KRS 278.040(2), requires that the person seeking

¹ Letter of Frances Farris filed June 22, 2011, second page.

intervention has an interest in the rates or service of a utility as those are the only two subjects under the jurisdiction of the Commission. The regulatory limitation of 807 KAR 5:001, Section 3(8) requires that a person demonstrate a special interest in the proceeding which is not otherwise adequately represented or that intervention is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. It is under these statutory and regulatory criteria that the Commission reviews a motion to intervene.

Having reviewed Ms. Farris' motions, the Commission finds that Ms. Farris has offered no evidence that her interest in the rates and service of KU differs from the interest of all other ratepayers of KU. Ms. Farris has not shown that she has a special interest that is not otherwise represented by the Attorney General, nor has she shown that she is likely to present issues or develop facts that would assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, the Commission finds that the motion filed June 13, 2011 and the motion filed June 22, 2011 should be denied.

Ms. Farris will have ample opportunity to participate in this proceeding even though she is not granted intervenor status. Ms. Farris can review all documents filed in this case and monitor the proceedings via the Commission's website at the following web address:

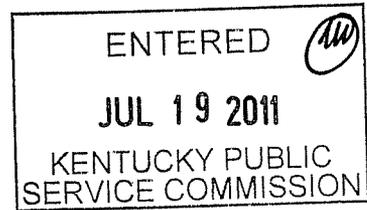
<http://psc.ky.gov/Home/Library?type=Cases&folder=2011%20cases/2011-00161>.

Ms. Farris may also file comments as frequently as she chooses, and those comments will be entered into the record of this case. Finally, she may also attend and present

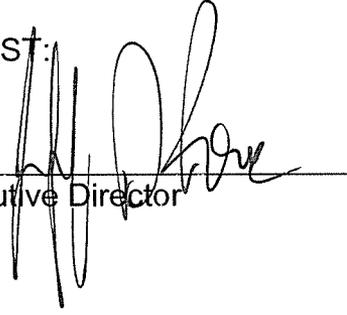
public comment at the public hearing to be held at our offices in Frankfort, Kentucky. The date for that hearing will be scheduled in the near future.

IT IS THEREFORE ORDERED that Ms. Farris' June 13, 2011 motion for intervention and Ms. Farris' June 22, 2011 motion for intervention are denied.

By the Commission



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